

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:14cv7**

**DIAMOND FALLS ESTATES, LLC,)
SHIRLEY M. BUAFO, and CHARLES)
K. BUAFO,)**

Plaintiffs,)

v.)

**NANTAHALA BANK & TRUST)
COMPANY, et al.)**

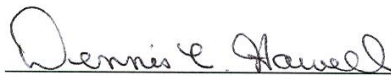
Defendants.)

**MEMORANDUM AND
RECOMMENDATION**

Pending before the Court is the Motion to Dismiss [# 4]. Defendants Steve Gravett and Excell Partners, LLC (“Excell”) move to dismiss all the claims asserted by Plaintiffs Shirley Buafo and Charles Buafo against Defendants Gravett and Excell. In addition, Defendants Gravett and Excell move to dismiss the breach of statutory duty claim asserted by Plaintiff Diamond Falls Estates, LLC (“Diamond Falls”) against Defendant Excell. Plaintiffs filed a brief response to the Motion to Dismiss in which they state that they consent to the dismissal of the claims in question. Plaintiffs did not otherwise respond to the Motion to Dismiss. Accordingly, the Court **RECOMMENDS** that the District Court **GRANT** the Motion to Dismiss [# 4] and **DISMISS** any claims asserted by Plaintiffs Shirley

Buafo and Charles Buafo against Defendants Steve Gravett and Excell Partners, LLC in Counts One and Two, as well as any breach of statutory duty claims asserted by Plaintiff Diamond Falls Estates, LLC against Defendant Excell Partners, LLC in Count One.

Signed: April 22, 2014

A handwritten signature in cursive script, reading "Dennis L. Howell", written over a horizontal line.

Dennis L. Howell
United States Magistrate Judge



Time for Objections

The parties are hereby advised that, pursuant to 28, United States Code, Section 636(b)(1)(C), and Rule 72, Federal Rules of Civil Procedure, written objections to the findings of fact, conclusions of law, and recommendation contained herein must be filed within **fourteen (14)** days of service of same.

Responses to the objections must be filed within fourteen (14) days of service of the objections. Failure to file objections to this Memorandum and Recommendation with the district court will preclude the parties from raising such objections on appeal. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986); United States v. Schronce, 727 F.2d 91 (4th Cir.), cert. denied, 467 U.S. 1208 (1984).

Signed: April 22, 2014

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Dennis L. Howell
United States Magistrate Judge

